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OFFICE OF PETITIONS

In re Application of
Xu, et al.
Application No. 09/232,880
Filed: January 15, 1999
Attorney Docket No. 210121.428C6

DECISION ON PETITION

This is a decision on the petition filed April 12, 2002, pursuant to 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned as a result of petitioner's failure to timely file an Appeal Brief (and fee) within the time period provided in 37 CFR 1.92(a). A final Office action was mailed on February 13, 2001, which set a shortened statutory period for reply of three (3) months. On June 18, 2001, petitioner filed an amendment, made timely by including a Certificate of Mailing dated June 13, 2001 and by obtaining a one month extension of time. However, the amendment was not entered as it did not *prima facie* place the application in condition for allowance. Petitioner then filed a Notice of Appeal on August 13, 2001¹. Accordingly, the two month period of time (extendable under 37 CFR 1.136(a)) for filing the Appeal Brief started to run from August 13, 2001. No Appeal Brief having been filed and no extensions of time having been received, the above-identified application became abandoned on October 14, 2001. The mailing of the instant decision precedes the mailing of a Notice of Abandonment.

With the instant petition, petitioner submitted a Continued Prosecution Application (CPA), paid the petition fee, and made the proper statement of unintentional delay.

The above-identified application is being revived solely for purposes of continuity with the Continued Prosecution Application.

¹ Petitioner was not charged for an extension of time to make the filing of the Notice of Appeal timely, despite an authorization to charge any necessary fees to his Deposit Account. Accordingly at this time, \$810 has been charged to Deposit Account No. 19-1090, representing the fee for a three month extension of time (\$920) minus the fee for a one month extension (\$110) that was already paid on June 13, 2001.

(CPA) filed on January 23, 2002.

The application file is being forwarded to Technology Center 1600 for processing of the CPA.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo

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